

REMARKS

Claims 1-21 are pending in the present Application. Claims 2-6 and 10-21 have been cancelled, Claim 1 has been amended, and claim 22 has been added, leaving Claims 1, 7-9 and 22 for consideration upon entry of the present Amendment.

Support for the amendment to claim 1 can be found in claim 4 as originally filed.

Support for new claim 22 can be found in claims 1, 4 and 9 as filed.

Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Information Disclosure Statement

Applicants note that the Examiner has not considered ruled-out art submitted in previous Information Disclosure Statements. With regard to publication dates, the EPO office action cited on October 17, 2007 provided the date of the office action, and the International Search Report filed on December 22, 2005 provided the international filing date. It is the Applicants' understanding that a publication date is not needed. Applicants respectfully request that the art referenced above be considered and a fully initialed PTO Form A820 be returned to the Applicants.

Claim Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 1-9 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement as containing subject matter, which was not described in the Specification in such a way as to reasonably convey to one skilled in relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Applicants respectfully traverse this rejection.

In making the rejection, the Examiner states "the specification, while being enabling for treatment of acute respiratory distress syndrome and inhibition of vascular permeability with FTY720 and (R)-ALL, does not reasonably provide enablement for treatment of other compounds of the generic formula claims in claim 1." (December 9, 2009 Office Action, page 2) The Examiner further states "Applicant has successfully argued that FTY720 and R-ALL have been shown to inhibit vascular permeability and has provided a link between vascular permeability and acute respiratory distress syndrome." (December 9, 2009 Office Action, page 3)

Reconsideration and withdrawal of this rejection are requested.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and withdrawal of the objection(s) and rejection(s) and allowance of the case are respectfully requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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Date: February 9, 2010
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